

REMARKS

This response addresses those issues raised in the Office Action mailed March 30, 2005. Applicant initially would like to thank the Examiner for the careful consideration given to this case. Through the above claim amendments and the following remarks, Applicant has addressed each and every issue raised by the Examiner in the Office Action. Applicant believes that each claim is in condition for final allowance, and prompt notice to such effect is respectfully requested.

Applicant Initiated Interview

Along with the filing of this Response and Amendment to the Examiner's non-final Office Action mailed March 30, 2005, Applicants have also filed a request for a telephonic interview with the Examiner at his earliest convenience. Applicant believes that there is only a small difference of opinion between the Examiner's and Applicant's positions, and Applicant feels that a telephonic interview may be used to bring the present prosecution to a successful conclusion. Applicant therefore invites the Examiner to contact his representative to schedule a telephonic interview after receiving the present Response and Amendment.

§ 102 Rejection

The Examiner rejected Claims 1-2, 5, 7-14, 17-21, 24-25 and 27-30 under 35 U.S.C. 102(a) as being anticipated by U.S. Patent No. 6,068,183 to Freeman ("Freeman"). In essence, the Examiner reiterated much of the language from previous rejections in light of the same art. Although Applicant disagrees with the Examiner's reading "active displays" into Freeman where it does not exist, Applicant desires to bring the present prosecution to a prompt and successful conclusion. Therefore, Applicant has amended each of the independent claims of

the present invention to more particularly distinguish over Freeman, and all other cited prior art.

Previous to this Response, each of the independent claims of the present application included a portable authentication device with an “active display” that was “enabled for bistable performance.” Initially the (previous) Examiner used a portion of the Freeman reference directed to “multi-color ferroelectric LCD displays that . . . do not require a power source to display an image” (3:3-5). However, Applicants pointed out to the Examiner that Freeman does not expressly disclose active display technology in this section, and, in fact teaches away from an active display technology in its description of a row/column-based driver circuit for the display device.

In the present Office Action, the Examiner “agrees that Freeman discloses passive technology” in its description related to LCD technology. However, the Examiner now argues that Freeman discloses active displays in its bare reference to “suspended particle displays” (SPDs) and “field emission displays” (FEDs). The Examiner states that these displays “are construed to be active displays.” However, the Examiner has not shown any teaching or suggestion within the four corners of this reference that such displays are active (and can be used in a bistable mode), and he has cited to no external reference to show that such was the case in the art at the time of filing the application.

Moreover, it is clear that these displays, in addition to not being expressly taught to be both active and bistable, are simply not. Take the case of an SPD. These displays are based on Brownian movement in a liquid suspension under a voltage. Although the operating voltages of an SPD are typically lower than an LCD display (which is an advantage), the suspension obviously has a decay time that must be refreshed often. In other words, it is not a bistable display. Similar arguments can be made for FEDs. Moreover, even if these devices were

“capable” of performing such tasks (which they are not), the reference itself must teach or suggest the use of these displays in this manner in order to anticipate the claims of a patent application. Clearly, this threshold has not been met.

However, in order to prevent an additional Office Action reiterating the same rejection (to which the Applicant disagrees), the Applicant has amended each and every independent claim of the present invention to further refine the display on the portable authentication device to specifically be limited to an “active reflective bistable display.” In addition to Freeman’s deficiencies in anticipating the invention as described above, Freeman also specifically excludes the use of reflective display technologies that do not require power to maintain the display of information (e.g., bistable). LCD displays are transmissive or partially transmissive (i.e., transreflective). SPDs and FEDs are similarly constructed (although working on different optical principles). No teaching or suggestion of a reflective display that is bistable and active appears in any of the cited prior art.

Moreover, the examples of such displays provided in the background of the invention (e.g., E-INK and GYRICON) began back in the 1970s and were publicly available for review by Freeman (*see, e.g.*, U.S. Pat. No. 4,126,854). Freeman, therefore, intentionally did not include these teachings as part of his invention, and it is improper for the Examiner to re-draft these references on an ad hoc basis – after the fact. The “active” nature of the drive mechanism of the present invention (as opposed to the passive row/column teachings of Freeman), the bistable nature of the present invention (as opposed to many of Freeman’s displays), and the reflective type of display of the present invention were not chosen at random. Each claimed attribute of the display on the portable authentication device was selected for a specific reason – as defined in the patent specification – to make it more uniquely adapted to use as part of a credit card-sized smart card for the various applications defined in the present application. These claimed elements were not

selected at random, and it is improper for the Examiner to read this combination of display elements into the prior art where it clearly does not exist.

For these reasons, and for those stated in the previous office action responses, the present invention clearly distinguishes over Freeman and all other cited prior art.

§ 103 Rejections

The Examiner rejected Claim 3 under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,068,183 to Freeman (“Freeman”), and further in view of U.S. Patent 4,736,966 to Haddock, et al (“Haddock”). The Examiner rejected Claim 22 under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,068,183 to Freeman (“Freeman”), and further in view of U.S. Patent 6,067,532 to Gebb (“Gebb”). Finally, the Examiner rejected Claims 4, 6, 15-16 and 26 under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,068,183 to Freeman (“Freeman”), and further in view of U.S. Patent 6,268,788 to Gray (“Gray”). For at least all of the reasons described above, these claims distinguish over the cited art.

In view of the above claim amendments and remarks, it is believed that the present application is in condition for final allowance and notice to such effect is respectfully requested. If the Examiner believes that additional issues need to be resolved before this application can be passed to issue, the undersigned invites the Examiner, through the attached request for interview, to contact him at the telephone number provided below.

Respectfully submitted,



Robert D. Kucler
Reg. No. 45,908

**REED SMITH LLP
P.O. Box 488
Pittsburgh, PA 15230-0488
(412) 288-4598**

Attorney for Applicant